

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

ALDERWOOD SURGICAL CENTER, LLC, a  
Washington limited liability company;  
NORTHWEST NASAL SINUS CENTER P.S.,  
a Washington professional service corporation;  
and JAVAD A. SAJAN, M.D.,

Defendants.

NO. 2:22-cv-01835-RSM

STIPULATED MOTION TO SEAL THE  
DECLARATION OF JAMES SANDERS IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S MOTION  
FOR FEES AND COSTS FOR  
DEFENDANTS' FAILURE TO COMPLY  
WITH THE COURT'S DISCOVERY  
ORDER AND EXHIBIT 1 THERETO AND  
ORDER TO SEAL

NOTE ON MOTION CALENDAR:  
Monday, November 13, 2023

**I. INTRODUCTION**

Pursuant to Local Civil Rule 5(g), above named parties jointly move the Court for an order to permit the Declaration of James Sanders in support of Defendants' Opposition to Plaintiff's Motion for Fees and Costs for Defendants' Failure to Comply with the Court's Discovery Order, and Exhibit 1 thereto to be filed and maintained under seal, because these documents contain protected health information ("PHI") subject to the Health Insurance Portability and Accountability Act ("HIPAA"), of 1996, Pub. L. No. 104-191, and the Washington Uniform Health Care Information Act ("UHCIA"), RCW 70.02.

## II. LEGAL STANDARD

For non-dispositive motions, the public’s right to access to records filed before a court yield if there is a “good cause.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006).

## III. ARGUMENT

Medical records are properly filed under seal because they “contain[] sensitive personal health information protected” from disclosure by HIPAA. *Cont’l Med. Trans. LLC v. Health Care Serv. Corp.*, No. C20-0115-JCC, 2021 WL 2072524, at \*4 (W.D. Wash. May 24, 2021); *see also Karpenski v. Am. Gen. Life Cos., LLC*, No. 2:12-cv-01569RSM, 2013 WL 5588312, at \*2 (W.D. Wash. Oct. 9, 2013). The declaration and exhibits contain protected information of patients of Defendants, and therefore implicate HIPAA, UHCIA, and their protections. *See* 45 C.F.R. § 164.508(a)(1) (not listing litigation as an exception to the general rule that authorization is required before public disclosure of protected health information); *see also* RCW 70.02.

## IV. LCR 5(g) CERTIFICATION

Pursuant to LCR 5(g), prior to filing this motion, counsel for the parties met and conferred via email on November 13, 2023. The parties agreed to jointly move the Court to maintain the declaration and exhibits under seal to prevent the public disclosure of protected health information. The parties agree that there is no option short of sealing to protect this sensitive personal information.

## V. CONCLUSION

For the reasons listed above, the Court should grant the parties’ stipulated motion to file and maintain under seal the Declaration of James Sanders in support of Defendants’ Opposition to Plaintiff’s Motion for Fees and Costs for Defendants’ Failure to Comply with the Court’s Discovery Order, and Exhibit 1 thereto.

1 DATED this 13th day of November, 2023.

2 *I certify this memorandum contains 365 words, in*  
3 *compliance with the Local Civil Rules.*

4 PERKINS COIE LLP

5 By: /s/ James Sanders

6 James Sanders, WSBA #24565

7 Tiffany L. Lee, WSBA #51979

8 Cara Wallace, WSBA #50111

9 Perkins Coie LLP

10 1201 Third Avenue, Suite 4900

11 Seattle, Washington 98101-3099

12 (206) 359-8000

13 *JSanders@perkinscoie.com*

14 *TiffanyLee@perkinscoie.com*

15 *CWallace@perkinscoie.com*

16 Attorneys for Defendants Alderwood Surgical  
17 Center, LLC, a Washington limited liability  
18 company; Northwest Nasal Sinus Center P.S.,  
19 a Washington professional service  
20 corporation; and Javad A. Sajan, M.D.

21 Robert W. Ferguson

22 Attorney General

23 By: /s/ Matthew Geyman

24 Matthew Geyman, WSBA #17544

25 Camille M. McDorman, WSBA #53036

Zorba Leslie, WSBA #58523

Alexandra Kory, WSBA #49889

Bret Finkelstein, WSBA #48845

Assistant Attorneys General

800 Fifth Avenue, Suite 2000

Seattle, WA 98104

(206) 464-7744

Attorneys for Plaintiff State of Washington

**ORDER**

Pursuant to the above stipulation, the Court hereby ORDERS that the Declaration of James Sanders in support of Defendants' Opposition to Plaintiff's Motion for Fees and Costs for Defendants' Failure to Comply with the Court's Discovery Order, and Exhibit 1 thereto shall be filed and maintained under seal.

DATED this 7<sup>th</sup> day of December, 2023.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Presented By:

PERKINS COIE LLP

By: /s/

James Sanders, WSBA #24565

Tiffany L. Lee, WSBA #51979

Cara Wallace, WSBA #50111

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101-3099

(206) 359-8000

*JSanders@perkinscoie.com*

*TiffanyLee@perkinscoie.com*

*CWallace@perkinscoie.com*

Attorneys for Defendants Alderwood Surgical Center, LLC, a Washington limited liability company; Northwest Nasal Sinus Center P.S., a Washington professional service corporation; and Javad A. Sajan, M.D.

1 Robert W. Ferguson  
2 Attorney General

3 By: /s/  
4 Matthew Geyman, WSBA #17544  
5 Camille M. McDorman, WSBA #53036  
6 Zorba Leslie, WSBA #58523  
7 Alexandra Kory, WSBA #49889  
8 Bret Finkelstein, WSBA #48845

9 Assistant Attorneys General  
10 800 Fifth Avenue, Suite 2000  
11 Seattle, WA 98104  
12 (206) 464-7744

13 Attorneys for Plaintiff State of Washington  
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15  
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